

Confederated Salish and Kootenai Tribes

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FIFRA INSPECTION REPORT

Lead Inspector, Inspector #	Wilhelmina Keenan, # 11008
Assisting Inspector, Inspector#	Jasmine Brown, # 11007
Date Of Inspection	July 7, 2016
Company Name	Moiese Valley Ranch (Aka: Perry's Dairy Farm)
Site Address	N 47° 27.672', W 114° 14.703' 51989 Dairy Lane Charlo, MT 59824
Facility Representative(s), Phone #(s)	Shawn Perry, Manager (406) 529-0955
Facility Function	Dairy Farm
Reason For Inspection	For Cause – Possible Human Exposure
Investigation Type	Agricultural Use
Reported By:	Timothy L. Courville
Address:	35849 Clairmont Road Ronan, MT 59864
Phone #:	(406) 531-2443

BACKGROUND

This For Cause inspection was conducted as part of the Confederated Salish and Kootenai Tribes Circuit Rider Program neutral inspection scheme for FY 2016. The Tribal Pesticide Circuit Rider Program is a cooperative agreement effort by the U. S. Environmental Protection Agency, Region 8 (US EPA R8) , the Confederated Salish and Kootenai Tribes to implement the Federal Insecticide, Fungicide, And Rodenticide Act (FIFRA) in Indian Country. Assisting Inspector, Jasmine Brown (Brown), an inspector with the CSKT Tribal Pesticide Circuit Rider Program, accompanied me on this inspection.

COMPLAINT

According to Ms. Brown's Record of Contact, she received a complaint from her father and mother, Tim Courville and his wife Vickie Hitchcock. Mr. Courville and his wife requested her assistance in filing a drift complaint. Brown received the complaint during December of 2014. Ms. Brown advised me of her parent's fertilizer exposure complaint. Fertilizer is not covered under FIFRA regulations and Ms. Brown advised her parents the complaint would be referred to an appropriate CSKT Natural Resources Department staff member.

Mr. Courville was exposed to fertilizer applications at the Perry Dairy Farm located west of Charlo, MT on the Flathead Indian Reservation. Mr. Courville has been employed by the Bureau of Indian Affairs (BIA) Flathead Indian Irrigation Project (FIIP) for approximately 19 years as a level 10-4 Heavy Equipment Operator (HEO). Mr. Courville was working on the irrigation "C" canal which goes through the Perry Dairy Farm during the week of August 18-22, 2014. Mr. Courville's work duties were cleaning the equipment tracks and repairing the canal. The Moiese Valley Ranch dairy were making fertilizer applications to the field next to the canal all week. On August 22, 2014, Mr. Courville began feeling ill but continued to work. Tim Courville was carpooling with Cody Brown and when Courville arrived at the FIIP office at the end of the work day, he was driven immediately to the Ronan hospital (**Attachment 6**). The Ronan hospital transferred Mr. Courville to Kalispell Regional Medical Center Intensive Care Unit the evening of August 22, 2014.

Ms. Brown was in and out of the office on medical leave for multiple surgical procedures from September, 2015 through December, 2015 and unable to refer her father's fertilizer complaint to a Tribal environmental program. The referral was delayed until January of 2016 and forwarded to Chuck Page, CSKT Air Quality Program. Ms. Brown requested the Air Quality Program to follow-up on measuring the air quality of the liquid-manure spread out where Tim Courville was working on the irrigation canal at the Perry Dairy Farm. Mr. Page informed Jasmine Brown he was not able to measure this substance with his air meter.

In spring of 2016, Mr. Courville and Ms. Hitchcock submitted another complaint to Jasmine Brown for pesticide exposure. Tim Courville told Ms. Brown, due to the debilitating effects to his health after the exposure to the fertilizer at the Perry Dairy, he may also have been exposed to pesticides.

According to Jasmine Brown's ROC, the BIA Irrigation supervisors, John Morigeau (Morigeau), Pete Plant and Bud Moran (Superintendent), they did not report the incident or file a Montana's Worker's Compensation claim after being notified of the incident. Mr. Courville filed his own claim with his medical records and a witness statement from Cody Brown. Tim Courville's Worker's Compensation claim is still pending.

On December 12, 2014, Mr. Courville's primary care physician Dr. Carter completed a U.S. Department of Labor Certification of Health care Provider for Employee's Serious Health Condition (Family and Medical Leave Act) form. Mr. Courville provided a copy of the form (**Attachment 1**) and a copy of Cody Brown's statement (**Attachment 6**) to the CSKT Pesticide Program. Mr. Courville reported it to NIOSH and he also requested an evaluation of his records. In response to his request, Melody Kawamoto, NIOSH MD MS Medical Officer and Dr. Nancy Burton evaluated his medical records and provided an informational letter to Mr. Courville. Ms. Kawamoto e-mailed the status of their evaluation request on February 9, 2015 (**Attachment 2**). Due to Mr. Courville being out of work for several months his internet was disconnected and his daughter Jasmine Brown helped with email communication. Jasmine Brown corresponded with Ms. Kawamoto through her personal e-mail account for her parents.

On July 6, 2016 I received a drift/ possible human exposure complaint referred by Jasmine Brown. Jasmine Brown provided me a Record of Contact (**Attachment 3**) and documents supplied to her by her parents Vicky Hitchcock and Tim Courville. On July 6, 2016, I asked for a written statement of the incident. On July 7, 2016 a Notice of Inspection (NOI) was signed (**Attachment 4**) and Mr. Courville provided a written statement of the exposure incident (**Attachment 5**).

According to Mr. Courville's statement he had worked all week north of the town of Charlo on the C-canal in August 2014. Each morning the Perry Dairy Farm would send a truck out 3-4 times per day and dump liquid manure on a dirt road and field approximately 100 feet above where he was working. He estimated the tanker truck to have a capacity of 5,000 to 6,000 gallons. Mr. Courville's statement also says he could smell an odor similar to ammonia and thinks they had something else in the tank, possibly a pesticide product.

OPENING CONFERENCE

Brown and I arrived at the Moiese Valley Ranch, also referred to as Perry's Dairy Farm on July 7, 2016. We met with Shawn Perry, Manager and facility representative. Introductions were made, credentials presented, and Notice of Inspection signed (**Attachment 6**). I asked Mr. Perry if we could take pictures during the inspection; he agreed this would be acceptable I took 24 photographs during the inspection (**Attachment 7**). I informed Mr. Perry the purpose of the "For Cause" inspection and the complaint received from Tim Courville.

I asked Mr. Perry who the owners of the dairy farm were; he stated the dairy farm was formerly owned by his family, but was purchased several years ago by several individuals. The dairy farm is now the Moiese Valley Ranch LLC. The owners reside in Idaho and Montana and their names are David Price, Brent Peterson, Ernie Foust and Sandi Coch. Ernie Foust and David Price are the Perry's brother-in-laws. There are three managers, Shawn Perry, Stan Perry (Shawn's brother), and Sterling Perry (Shawn's son). The farm employs 10 workers year-round, six cow milkers, 4 laborers and two part time summer workers to change sprinkler pipe and other duties. The 4 laborers drive truck and pick up feed. Mr. Perry stated the ranch consists of 2,500 acres, of which 1,200 acres is dryland pasture and the rest in under irrigation. The crops grown are 180 acres of hay/ oats, 520 acres of corn and 440 acres of alfalfa. Approximately 400 dairy cows are on the farm.

Mr. Perry explained the canal crosses a dryland pasture and stated they were spreading manure during the time Tim Courville was working on the canal. I asked Mr. Perry if any pesticides were applied during that time. He stated he is certain no pesticides were applied during the time Courville was working on the canal. He showed us the white septic pump truck which has a 5-6,000 gallon tank capacity and liquid cow manure is pumped out of the tank onto the fields. The truck covers ¼ mile with one tank and approximately three loads are usually applied. He pumps the liquid cow manure up on the hill now because Mr. Morigeau told him not to pump the manure out where the irrigation employees are working. Mr. Perry stated he

recalled the incident and stated he and Mr. Morigeau speak often because his son, Sterling Perry is married to Bonnie, Mr. Morigeau's daughter.

Mr. Perry pointed out the area where Mr. Courville was working next to the canal and the road above the area where the tanker truck pumped out the liquid cow manure.

Weather data shows winds N, NW on August 22, 2014 with wind speeds varying from 3.5 -9.2 mph (**Attachment 9**). From review of weather data, winds were coming in from the N, NW direction towards S, SE direction.

I asked Mr. Perry about recent pesticide use. Mr. Perry stated he received a grant during 2005 and hired a helicopter applicator named Dave Vincent to apply herbicide. His most recent application was made on July 1, 2016 to 400 acres of corn targeting broadleaf weeds and quack grass. The corn crop is used as feed for approximately 1,000 head of cattle. Ernie Foust and Brent Peterson were the applicators.

The weather at the time of application was calm, 70°F. The time of application was 6:00 a.m. to 2:00 p.m. The product applied was Round-Up Glystar 5 Extra, EPA Registration No. 42750-59. The application was made using a 2000 Patriot Wide Trax self-propelled sprayer with an 80 foot boom and a 1,500 gallon water tank and 16 nozzles per side. The spray tractor also has a GPS unit. The dilution rate was 1 quart/ acre. The diluted material applied was 11-10 gallons/acre; see Use Investigation Report (**Attachment 10**). Page 4 of the Product label contains an Ag Use Box statement "Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR Part 170".

I completed a Worker Protection Standards Inspection Checklist with answers supplied by Mr. Perry (**Attachment 11**) since the application was made within the past 30 days and he has workers on site. Moiese Valley Ranch did not have an approved safety poster. Emergency medical information containing the name, address and phone number of the medical facility was not displayed. During the WPS Tier 1 inspection no WPS poster was present and 40 CFR §170.22 **Providing specific information about applications** and §170. 135 **Posted pesticide safety information (a)** requires when workers are on an agricultural establishment and, within the last 30 days, a pesticide covered by this subpart has been applied on the establishment or a restricted interval has been in effect, the agricultural employer shall display, in accordance with this section, pesticide safety information.

Brent Peterson was present in the office and said he would take us to the mix and load site and show us the equipment and remaining pesticides. Brent Peterson (Peterson) rode with us to the mix/load site approximately 1 mile from the dairy farm .The mix load site is at an older farm house and out buildings. Tyvek coveralls, nitrile gloves, cloth towel and a NIOSH 3001 respirator are kept out of treated areas and stored in the enclosed cab of sprayer. Peterson showed us the late 1990's-2000 wide Trax Patriot self-propelled sprayer with an 80 foot boom swath, 16 nozzles on each side of boom and the tank has capacity of 800 gallons. The sprayer is equipped with a gps and a monitor to check ground speed and output.

Pesticides stored at the site included a shuttle containing surfactant/fertilizer in the back of a white Dodge truck, three 15 gallon totes of GlyStar 5 Extra, EPA Registration number

2935-MT-001 and EPA Est. #002935-MT-001 and a truck with a 1500 gallon tank on the rear bed of the truck used for water. The water tank is filled using a hose from a well spigot.

Jasmine Brown conducted a worker interview with Tiffany Pate, (**Attachment 12**), who has been employed for approximately three years and her duties are to clean, wean and feed calves. The worker was not informed of a central notification area. The pesticide application information (location of treated area, date and time of application, product name, EPA reg. no., active ingredient, and REI) was not displayed. §170.120 **Notice of application. (b) Notification to workers on farms, in nurseries, or in forests of pesticide application.** The agricultural employer shall notify workers of any pesticide application on the farm or in the nursery or forest in accordance with this paragraph. I provided a poster and an example of the application information to Mr. Perry.

According to Mr. Perry, pesticide safety training is conducted each morning in a shop building in the central area of the ranch. Perry does not inform the workers of pesticide applications because they are not allowed in the treated fields. The farm is irrigated with pivot sprinklers and requires no manual labor or workers to go into the field. The alfalfa crop requires workers to go into the field to change pipe. Workers have not been trained in the past 5 years. Mr. Perry stated he does not allow workers to enter treated areas during the Restricted Entry Interval (REI). There was no verification on file that pesticide safety information was provided to workers. Workers did not receive the required additional training before the 6th day of entry into areas where WPS pesticides have been applied within the last 30 days.

§170.130 (3) **Pesticide safety training for workers (a) General requirement – (1) Agricultural employer assurance.** The agricultural employer shall assure that each worker, required by this section to be trained according to this section during the last 5 years, counting from the end of the month in which the training was completed. (3) (ii) *Training before the 6th day of entry.*

Mr. Perry stated the pesticide handler; does have a Private Applicator's license from the state of Idaho and is required to take a test every 2 years. The handler would be qualified to provide the WPS training to the workers/ handlers at the ranch.

Safety information was not presented in a manner that workers/ handlers could understand, and safety information did not meet the criteria as there was not training materials provided to workers. §170.130 (d) **Training programs. (1) General pesticide safety** shall be presented to workers either orally from written materials or audiovisually. The information must be presented in a manner that the workers can understand (such as through a translator) using nontechnical terms. The presenter also shall respond to workers' questions.

I provided him an EPA WPS What Employer's Need To Know CD- Rom. Mr. Perry will inform the workers at 8:00 AM every morning of pesticide field applications.

According to Mr. Perry, emergency assistance, transportation is available for employees who become injured. Information is available to be provided to medical personnel regarding the pesticide to which employees may have been exposed.

Decontamination supplies include soap, a cloth towel and water from a fresh water tank on a separate truck than the spray equipment. Eye-flush water was not immediately available to handlers using pesticides requiring protective eyewear. §170.150 **Decontamination.** (b) *General conditions.*(4) To provide for emergency eyeflushing, the agricultural employer shall assure that at least 1 pint of water is immediately available to each worker who is performing early-entry activities permitted by §170.112 and for which the labeling requires protective eyewear.

Decontamination site by the office consists of a water spigot and the office has soap, disposable towels and running water. Personal Protective Equipment supplies onsite were gloves and a tyvek suit and are stored in the farm vehicles used during work. All supplies were within ¼ mile of their worksite.

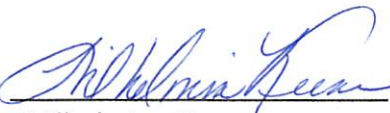
Handlers are provided enough water for washing their entire body and do have a change of clothing.

EXIT CONFERENCE

I answered questions that Mr. Perry had regarding any questions. We thanked him and left at 10:22 a.m. I provided Mr. Perry a copy of EPA's Certification and Training Instructions, brochure and application, EPA's WPS Revisions Comparison Chart, AEZ handout and the CD-ROM: *EPA How To Comply With The Worker Protection Standard For Agricultural Pesticides – What Employers Need To Know* Revised September 2005 manual. Mr. Perry completed the required information on the poster and displayed the EPA approved safety poster prior to us leaving the site.

ATTACHMENTS

1. Dr. Carter's Form
2. Dr. Kawamoto's Email
3. Record of Contact
4. Notice of Inspection – Tim Courville
5. Written Statement- Tim Courville
6. Written Statement Cody Brown
7. Notice of Inspection- Moiese Valley Ranch LLC
8. Photographs
9. Site Map
10. Weather Data
11. Use Investigation Report
12. Worker Protection Standards Checklist
13. Worker Protection Standards: Worker Interview- Tiffany Pate

Prepared By:  Date: September 20, 2016
Wilhelmina Keenan
FIFRA Inspector #11008
Confederated Salish and Kootenai Tribes